

REMARKS

Acceptance of the drawings as filed, and allowance of claims 1,4-6 are noted with appreciation.

Claims 2 and 3 and 12 have been rejected under 35 U.S.C. §112, paragraph 2, as being indefinite for lack of antecedent basis for recited terminology.

These claims have been amended in consideration of the Examiner's comments and suggestions to clarify the antecedent basis and to define the invention more specifically. It is therefore submitted that these claims now define the invention with sufficient particularity and distinctiveness to be patentable to Applicant.

Claim 11 has been rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,401,721.

Applicant is submitting herewith a Terminal Disclaimer regarding the cited patent to obviate this basis for rejection. It is therefore respectfully submitted that claim 11 is now patentable to Applicant.

Claims 7-10 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Kremer '631. This rejection is respectfully traversed with respect of these claims as amended herein.

Independent claim 7 has been amended to define the invention more specifically to include “installing within the aorta through an opening the graft conduit in collapsed configuration”, and “anastomosing another end of the graft conduit outside the aorta to a blood vessel in the body”.

These aspects of the claimed invention are not disclosed by Kreamer ‘631 which is directed to installing a prosthetic graft in the aorta for repairing a damaged segment of the aorta, and offers no hint or suggestion of grafting from the aorta to anastomose to a blood vessel outside the aorta, in any manner resembling Applicant’s claimed invention.

It is therefore respectfully submitted that the deficient disclosure of Kreamer ‘631 cannot anticipate claim 7 or the claims which depend therefrom, nor provide sufficient basis including all of the claimed steps from which a proper determination of obviousness can be made. Instead, Applicant submits that claim 7 and the claims 8-10 which variously depend therefrom and recite additional limitations are now all patentably distinguishable over the cited art.

Claims 11 and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Donaldson ‘068 in view of Sparks ‘777. This rejection is respectfully traversed.

Independent claim 11 specifically recites “forming an incision in the body of the patient below the inguinal ligament to expose the region between the inguinal

ligament and the femoral artery *for access upwardly toward the aorta*” and “inserting the graft conduit through said incision upwardly toward a site along the aorta”.

These aspects of the claimed invention present a distinctive access approach to the aorta that is not disclosed or even suggested by the cited references considered either alone or in the combination proposed by the Examiner.

Certainly, Donaldson ‘068 discloses bypass grafts attached to a number of different arteries, as the Examiner suggests. More significantly, this reference fails to disclose inserting a graft upwardly from below the inguinal ligament toward the aorta.

Nor does Sparks ‘777 in any way complement the deficient disclosure of Donaldson ‘068 with a procedure for grafting *downwardly* in the leg between femoral and popliteal arteries. Such procedure completely lacks incentive or motivation and certainly is devoid of any instruction for approaching the aorta via *upward* access thereto from below the inguinal ligament in a manner as claimed by Applicant. And, contrary to the Examiner’s assertion, there is no motivation found in Sparks ‘777 for contemporary surgery to avoid forming a long incision (into the abdomen?) by penetrating tissue down though the leg.

It is therefore respectfully submitted that these references fail to establish even a *prima facie* basis, including all of Applicant’s recited procedural steps, from

which a proper determination of obviousness could be made. Claims 11 and 12 are therefore submitted to be patentable distinguishable over the cited art.

Dependent claim 3 has been indicated to be allowable but objectionable for depending from a rejected base claim. However, by the amendments herein to the parent claim 2, it is respectfully submitted that this claim 3 and the remaining claims 2, 7-12 are now all allowable with claims 1 and 4-6.

Reconsideration and allowance of all claims are solicited.

Respectfully submitted,
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ATTACHMENT:

Terminal Disclaimer